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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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FLIESLER MEYER, LLP FOUR EMBARCADERO CENTER SUITE 400 SAN FRANCISCO, CA 94111			EXAMINER CHEUNG, MARY DA ZHI WANG	
			ART UNIT 3621	PAPER NUMBER

DATE MAILED: 08/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/854,163

Applicant(s)

ENG, MAY D.

Examiner

Mary Cheung

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 48-54, 57, 59-68, 71, 73-79, 83-94 and 98-107 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 48-54, 57, 59-68, 71, 73-79, 83-94 and 98-107 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6/15/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of the Claims

1. This action is in response to the response filed on June 15, 2006. Claims 48-54, 57, 59-68, 71, 73-79, 83-94 and 98-107 are pending and are examined. Claims 1-47, 55-56, 58, 69-70, 72, 80-82 and 95-97 canceled.

Response to Arguments

2. Applicant's arguments filed June 15, 2006 have been fully considered but they are not persuasive.

In response to the applicant argues that the combined teaching of Wyman (U. S. Patent 5,438,508) and Brandt (U. S. Patent 5,758,068) fails to teach initiating a lockout grace period if the number of license of software users exceeds a maximum number of licenses as claimed in claims 48 and 62, examiner respectfully disagrees. Wyman teaches initiating a grace feature that is a license overdraft-limit if the total number of licensed software users exceeds a maximum number of licenses (column 39 lines 15-38), in which the maximum number of licenses corresponds to the logical grant license units without overdraft-limit modification in Wyman's teaching. Wyman does not specifically teach overdraft-limit is a grace period. However, Brandt teaches initiating a grace period for allowing the user to use the software until reach the usage limit (column 2 lines 6-19 and column 7 lines 27-52 and Fig. 6). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the grace feature of overdraft-limit in Wyman's teaching to be a grace period as taught by Brandt for better controlling the licensing right.

In response to the applicant's argument that there is not shown, suggested or give a motivation in Wyman to teach deallocation licenses from which a scan result is not received. Examiner believes that the modified teaching of Wyman teaches this matter. Wyman teaches the master node check whether the scan result message has been received from all of the remote nodes and deallocates any licenses allocated to users of any of the nodes upon receiving termination messages, such as error status, abnormal termination, etc. (column 15 lines 38-40 and column 16 line 51 – column 17 line 2). Wyman does not specifically teach the received termination messages so that error status or abnormal termination would include message from which a scan result message has not been received. It would have been obvious to one of ordinary skill in the art allow the received terminal messages in Wyman's teaching to include message from which a scan result message has not been received for securely and efficiently utilizing licenses.

In response to the applicant's argument that the cited prior art fail teach sending a warning message if the total number of licensed software users exceeds a limit that is less than the maximum number of licenses, examiner respectfully disagrees because the combined and modified teaching of Wyman and Rivera (U. S. Patent 6,056,786) as discussed in the office action below teaches this matter.

Claim Objections

3. Claims 57 and 71 are objected to because of the following informalities:

- a) Claim 57 should not depend on claim 55 since claim 55 is canceled. For examination purpose, it is assumed that claim 57 depends on claim 48;

b) Claim 71 should not depend on claim 69 since claim 69 is canceled. For examination purpose, it is assumed that claim 71 depends on claim 62.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 48-54, 59-68, 73-75, 84 and 99 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wyman, U. S. Patent 5,438,508 in view of Brandt et al., U. S. Patent 5,758,068.

As to claims 48 and 62, Wyman teaches a computer network including a multi-tier licensing system, and a multi-tier licensing system method, comprising: (Fig. 1):

- a) A user tier including user computers (column 9 lines 54-56 and Fig. 1);
- b) A remote node tier (*delegatee servers 13 of Fig. 1*) including remote nodes enabling users to run a licensed software program, at least some remote nodes allowing multiple users at multiple computers to run the licensed software program concurrently, the remote nodes producing counts or indications of the numbers of licensed software users associated with the remote nodes (column 9 line 30 – column 10 line 1 and column 10 lines 35-41 and column 11 lines 23-54 and column 15 line 48 and column 16 line 2 and column 20 lines 28-35 and Fig. 1);

c) A master node tier (*license server 10 of Fig. 1*) including a mater node receiving the counts from the remote nodes and calculating a total number of licensed software users, and the master node evaluating a license allocation condition using the total number of licensed software user, the master node initiates a license overdraft-limit if the total number of licensed software users exceeds a maximum number of licenses (column 9 line 30 – column 10 line 1 and column 11 lines 17-35 and column 12 line 65 – column 13 line 10 and column 15 lines 1-67 and column 39 lines 15-38 and Figs. 1-3).

Wyman does not specifically teach the overdraft-limit is a grace period.

However, Brandt teaches initiates a license lockout grace period if the total number of licensed software users exceeds a maximum number of licenses (column 2 lines 6-19 and column 7 lines 27-52 and Fig. 6). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow Wyman's teaching to include the feature of initiates a license lockout grace period if the total number of licensed software users exceeds a maximum number of licenses as taught by Brandt for better controlling the licensing right.

As to claims 49 and 63, Wyman teaches the remote nodes and master node run licensing software (column 9 line 30 – column 10 line 1 and Fig. 1).

As to claims 50 and 64, Wyman teaches the master node is selected as the master node from the nodes running the licensing software (column 9 lines 30-39).

As to claims 51 and 65, Wyman teaches the remote nodes server the licensed software to the users in the user tier (column 9 line 30 – column 10 line 11 and Fig. 1).

As to claims 52 and 66, Wyman teaches a sanity scan is done on at least one subset of the remote nodes (column 23 lines 38-50).

As to claim 53 and 67, a scan result message is sent to the master node with at least some of the counts is taught by Wyman as the master node (*license server 10 of Fig. 1*) authorizes the remote nodes (*delegatee server 13 of Fig. 1*) to administrate usages of licenses for user nodes (*users 16 of Fig. 1*), the remote nodes scan and calculate user's licenses, the remote nodes further maintain log files for each user node regarding the usages of the licenses, and the log files are also stored in the master node (column 9 line 30 – column 10 line 1 and column 10 lines 35-41 and column 11 lines 17-54 and column 12 line 65 – column 13 line 13 and column 23 line 38 – column 24 line 12 and Fig. 1).

As to claims 54 and 68, Wyman further teaches the master node check whether the scan result message has been received from all of the remote nodes and deallocates any licenses allocated to users of any of the nodes upon receiving termination messages, such as error status or abnormal termination, etc. (column 15 lines 38-40 and column 16 line 51 – column 17 line 2). Wyman does not specifically teach the received termination messages, such as error status or abnormal termination including message from which a scan result message has not been received. It would have been obvious to one of ordinary skill in the art allow the received terminal messages in Wyman's teaching to include message from which a scan result message has not been received for securely and efficiently utilizing licenses.

As to claims 59-60 and 73-74, the counts are sent to the master node asynchronously and periodically are taught by Wyman as transmitting said counts whenever the license usage occurs (column 10 lines 35-40 and Figs. 1-3).

As to claims 61 and 75, Wyman teaches computer network is a distributed computer network (column 6 lines 66-68).

As to claims 84 and 99, Wyman teaches the master node initiates a license overdraft-limit if the total number of licensed software users exceeds the predetermined value (column 39 lines 15-38). Wyman does not specifically teach the overdraft-limit is a grace period. However, Brandt teaches initiates a license lockout grace period if the total number of licensed software users exceeds a maximum number of licenses (column 2 lines 6-19 and column 7 lines 27-52 and Fig. 6). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow Wyman's teaching to include the feature of initiates a license lockout grace period if the total number of licensed software users exceeds a maximum number of licenses as taught by Brandt for better controlling the licensing right.

6. Claims 76-79, 83, 86-94, 98 and 101-105 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wyman, U. S. Patent 5,438,508.

As to claims 76 and 91, Wyman teaches a computer network including a multi-tier licensing system, and a multi-tier licensing system method, comprising: (Fig. 1):

- a) A user tier including user computers (column 9 lines 54-56 and Fig. 1);
- b) A remote node tier (*delegatee servers 13 of Fig. 1*) including remote nodes enabling users to run a licensed software program, at least some remote nodes allowing multiple users at multiple computers to run the licensed software

program concurrently, the remote nodes producing counts or indications of the numbers of licensed software users associated with the remote nodes (column 9 line 30 – column 10 line 1 and column 10 lines 35-41 and column 11 lines 23-54 and column 15 line 48 and column 16 line 2 and column 20 lines 28-35 and Fig. 1);

c) A master node tier (*license server 10 of Fig. 1*) including a master node receiving the indications from the remote nodes and calculating a total number of licensed software users, and the master node evaluating a license allocation condition using the total number of licensed software user (column 9 line 30 – column 10 line 1 and column 11 lines 17-35 and column 12 line 65 – column 13 line 10 and column 15 lines 1-67 and Figs. 1-3), wherein a sanity scan is done on at least one subset of the remote nodes (column 23 lines 38-50), a scan result message is sent to the master node with at least some of the indications (column 9 line 30 – column 10 line 1 and column 10 lines 35-41 and column 11 lines 17-54 and column 12 line 65 – column 13 line 13 and column 23 line 38 – column 24 line 12 and Fig. 1; *specifically this limitation is taught by Wyman as the master node (license server 10 of Fig. 1) authorizes the remote nodes (delegatee server 13 of Fig. 1) to administrate usages of licenses for user nodes (users 16 of Fig. 1), the remote nodes scan and calculate user's licenses, the remote nodes further maintain log files for each user node regarding the usages of the licenses, and the log files are also stored in the master node*), the master node check whether the scan result message has been received from all of the remote nodes and deallocates any licenses allocated to users of any of the nodes upon

receiving termination messages, such as error status, abnormal termination, etc.
(column 15 lines 38-40 and column 16 line 51 – column 17 line 2).

Wyman does not specifically teach the received termination messages, such as error status or abnormal termination including message from which a scan result message has not been received. It would have been obvious to one of ordinary skill in the art allow the received terminal messages in Wyman's teaching to include message from which a scan result message has not been received for securely and efficiently utilizing licenses.

As to claims 77 and 92, Wyman teaches the remote nodes and master node run licensing software (column 9 line 30 – column 10 line 1 and Fig. 1).

As to claims 78 and 93, Wyman teaches the master node is selected as the master node from the nodes running the licensing software (column 9 lines 30-39).

As to claims 79 and 94, Wyman teaches the remote nodes server the licensed software to the users in the user tier (column 9 line 30 – column 10 line 11 and Fig. 1).

As to claims 83 and 98, Wyman teaches the master node compares the total number of licensed software users to a predetermined value (column 20 lines 13-62 and column 24 line 58 – column 25 line 20).

As to claims 86 and 101, Wyman teaches the predetermined value is determined from a maximum number of licenses (column 20 lines 13-62 and column 24 line 58 – column 25 line 20 and Figs. 2-3).

As to claims 87-88 and 102-103, the counts are sent to the master node asynchronously and periodically are taught by Wyman as transmitting said counts whenever the license usage occurs (column 10 lines 35-40 and Figs. 1-3).

As to claims 89 and 104, Wyman teaches computer network is a distributed computer network (column 6 lines 66-68).

As to claims 90 and 105, Wyman teaches the indications are counts of the number of licensed software users associated with the remote nodes (see claims 76 and 91 above).

7. Claims 57 and 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wyman, U. S. Patent 5,438,508 in view of Brandt et al., U. S. Patent 5,758,068, and in further view of Rivera et al., U. S. Patent 6,056,786.

As to claims 57 and 71, Wyman modified by Brandt teaches the master node compares the total number of licensed software users to a predetermined value as discussed above. Wyman does not specifically teach the master node sends a warning message if the total number of licensed software users exceeds a limit that is less than the maximum number of licenses. However, Rivera teaches the server node sends a warning message if the total number of licensed software users exceeds a predetermined value (column 8 lines 39-66). Rivera does not specifically teach that the predetermine value is a limit that is less than the maximum number of licenses. It would have been obvious to one of ordinary skill in the art to realize that to set the predetermined value to be less than the maximum number of licenses is a design choice; thus, one of ordinary skill in the art would have been motivated to set the predetermined value to be a number based on design need. It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the master node in the teaching of Wyman modified by Brandt to send a warning message if the total number of licensed software users exceeds a predetermined value for

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alerting the over-usage of the licenses, wherein the predetermined value is based on design need.

8. Claims 85, 100 and 106-107 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wyman, U. S. Patent 5,438,508 in view of Rivera et al., U. S. Patent 6,056,786.

As to claims 85 and 100, Wyman teaches the master node compares the total number of licensed software users to a predetermined value as discussed above. Wyman does not specifically teach the master node sends a warning message if the total number of licensed software users exceeds a predetermined value. However, this matter is taught by Rivera as the server node sends a warning message if the total number of licensed software users exceeds a predetermined value (column 8 lines 39-66). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the master node in Wyman's teaching to send a warning message if the total number of licensed software users exceeds a predetermined value for alerting the over-usage of the licenses.

As to claims 106-107, Wyman teaches all the limitations as discussed above except for teaching the master node sends a warning message if the total number of licensed software users exceeds a limit that is less than the maximum number of licenses, and the limit is a predetermined percentage of the maximum number of licenses. However, Rivera teaches the server node sends a warning message if the total number of licensed software users exceeds a predetermined value (column 8 lines 39-66). Rivera does not specifically teach that the predetermine value is a limit that is less than the maximum number of licenses, and the limit is a predetermined percentage

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of the maximum number of licenses. It would have been obvious to one of ordinary skill in the art to realize that to set the predetermined value to be less than the maximum number of licenses, and the limit is a predetermined percentage of the maximum number of licenses are design choices; thus, one of ordinary skill in the art would have been motivated to set the predetermined value to be a number based on design needs. It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the master node in Wyman's teaching to send a warning message if the total number of licensed software users exceeds a predetermined value for alerting the over-usage of the licenses, wherein the predetermined value is based on design needs.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Inquire

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary Cheung whose telephone number is (571)-272-6705. The examiner can normally be reached on Monday – Thursday from 10:00 AM to 7:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer, can be reached on (571) 272-6779.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax phone number for the organization where this application or proceedings is assigned are as follows:

(571) 273-8300	(Official Communications; including After Final Communications labeled "BOX AF")
(571) 273-6705	(Draft Communications)

Mary Cheung
August 8, 2006

